

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

ONYX THERAPEUTICS, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 18-0262 (LPS)
	)	
BRECKENRIDGE PHARMACEUTICAL,	)	
INC.,	)	
	)	
Defendant.	)	

**STIPULATION AND [PROPOSED] ORDER**

WHEREAS, this action against Breckenridge Pharmaceutical, Inc. (C.A. No. 18-262-LPS) (the “Second Breckenridge Action”) is related to *Onyx Therapeutics, Inc. v. Cipla Ltd. and Cipla USA, Inc.*, C.A. No. 16-988 (LPS) (consolidated cases), which is currently pending before this Court;

WHEREAS, plaintiff Onyx Therapeutics, Inc. (plaintiff or “Onyx”) and defendant Breckenridge Pharmaceutical, Inc. (defendant or “Breckenridge”, and with Onyx, “the parties”) have agreed to consolidation of the Second Breckenridge Action with C.A. No. 16-988 (LPS) for purposes of discovery; and

WHEREAS, the parties have entered into a stipulation for the purpose of streamlining issues for discovery and trial (C.A. No. 18-262-LPS, D.I. 16).

IT IS HEREBY STIPULATED AND AGREED by the parties, subject to the approval of the Court, that:

1) The Second Breckenridge Action shall be consolidated with C.A. No. 16-988 (LPS) for purposes of discovery. Upon consolidation, Onyx or Breckenridge may request that the Court consolidate the Second Breckenridge Action with C.A. No. 16-988 (LPS) for any other

purpose by following the “Discovery Matters and Disputes Related to Protective Order” procedures set forth in the Scheduling Order (D.I. 21) in C.A. No. 16-988 (LPS);

2) Upon consolidation, the parties agree to be bound by the Protective Order in C.A. No. 16-988 (LPS) filed on September 21, 2017 (D.I. 87) and So Ordered by the Court on September 22, 2017;

3) Upon consolidation, the parties agree to the provisions set forth in paragraphs 5-7, 8(j), 8(k), 9, 10 and 17-22 of the Scheduling Order (D.I. 21);

4) Upon consolidation, Breckenridge agrees to adopt Defendants’ Disclosures Pursuant to Paragraph 4(d) served in C.A. No. 16-988 (LPS) on October 16, 2017 and Defendants’ Amended Disclosures Pursuant to Paragraph 4(d) served in C.A. No. 16-988 (LPS) on May 31, 2018, subject to any amendment or supplementation thereto made in the lead case C.A. No. 16-988 (LPS), and to limit its counterclaims to the positions set forth in said disclosures, and plaintiff agrees to adopt Plaintiff’s Responses to Defendants’ Disclosures Pursuant to Paragraph 4(D) of the District of Delaware Default Standard for Discovery served in C.A. No. 16-988 (LPS) on February 21, 2018 and Plaintiff’s Amended Responses to Defendants’ Disclosures Pursuant to Paragraph 4(D) of the District of Delaware Default Standard for Discovery served in C.A. No. 16-988 (LPS) on May 31, 2018, subject to any amendment or supplementation thereto made in the lead case C.A. No. 16-988 (LPS);

5) Upon consolidation, the parties agree that all discovery taken by either Onyx or Breckenridge in C.A. No. 16-988 (LPS), and all expert reports served on behalf of either Onyx or Breckenridge in C.A. No. 16-988 (LPS), may be used in the consolidated action by Onyx and Breckenridge respectively;

6) Upon consolidation, the parties agree that the provisions set forth in paragraphs 1, 4 and 11-14 of the Scheduling Order (D.I. 21) are unnecessary in light of the provisions set forth in Paragraphs 1, 2 and 7 herein;

7) Upon consolidation, the parties agree they have already complied with and/or completed the provisions set forth in paragraphs 2, 3, 8(a) - (i), 15 and 16 of the Scheduling Order (D.I. 21) and/or the deadlines set forth in paragraphs 2, 3, 8(a) - (i), 15 and 16 of the Scheduling Order (D.I. 21) have passed;

8) Upon consolidation, the parties agree to forego claim construction; and

9) Upon consolidation, all filings shall be made in the lead case C.A. No. 16-988 (LPS).

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

RICHARDS, LAYTON & FINGER, P.A.

*/s/ Maryellen Noreika*

*/s/ Kelly E. Farnan*

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*Attorneys for Plaintiff Onyx Therapeutics,  
Inc.*

*Attorneys for Defendant Breckenridge  
Pharmaceutical, Inc.*

SO ORDERED this \_\_\_\_ day of July, 2018.

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United States District Judge